IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 21764 of 1995

Between:

1 V.Prabhakar Rao, S/o. late V.Krishnayya,
R/o.7-1-209/21, Ameerpet,
Hyderabad.
2 K.Nagendra Prasad, S/o. K.V.L.Venu Rao,
Vasavi Nagar, Karkhana,
Sec'bad-9.

..... PETITIONERS

AND

The Commissioner,
Kukatpally Municipality, Rangareddy District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate order or direction more particularly a Writ in the nature of Mandamus declaring the notice dated 6-9-1995 and conformation orders dated 15-9-1995 as illegal and void and consequently direct the Respondent not to demolish the three garages in the Cellar Portion of Bhanu Kiran Apartments, bearing Plot No.146 situated at Bobbuguda, Kukatpally, Rangareddy district.

Counsel for the Petitioners: MR.A.RAVISHANKAR

Counsel for the Respondents : MR.E.SAMBASIVA PRATAP (SC FOR MUNICIPALITY)

The Court made the following :

O R D E R:

Heard.

2. This writ petition is filed to declare the notice dated 6.9.1995 and confirmation orders dated 15.9.1995 as illegal and arbitrary.

3. From the writ affidavit it appears that the owner of the land constructed some flats and the petitioners purchased them. It also appears that the said flats were constructed contrary to the A. P. Municipalities Act and without prior permission and, therefore, the respondent issued notice dated 6.9.1995 for demolition and confirmed the said notice by order dated 15.9.1995.

4. Prima facie I am of the view that if the orders of demolition are confirmed, only by issuing the notice to the owner of the property and not to the petitioners, who are the bona fide purchasers, their rights would be serious jeopardized. Therefore, before confirming the demolition orders, the respondent ought to have issued notices to the petitioners and other similar occupiers, since they would be the affected parties. Hence, having regard to the facts and circumstances, this writ petition is disposed of with the following direction:

5. The impugned show cause notice dated 6.9.1995 and the confirmation orders of demolition dated 15.9.1995 are hereby set aside and the respondent shall issue notice to the petitioners and other occupiers of the flats and after receiving their explanations, further action in accordance with law shall be taken.

6. It is needless to observe that the respondent, if necessary shall consider the issue with practical approach and may consider their case for regularization for the alleged illegal construction, in the light of any policy of the Government or under any law, which provides for regularization.

7. In the circumstances of the case, there shall be no order as to costs.

05.08.2004

AVS/vs

To

1. The Commissioner,
   Kukatpally Municipality, Rangareddy District.

2. Two CD copies.

THE HON'BLE MR JUSTICE D.S.R.VARMA

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WRIT PETITION NO. 21764 OF 1995

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Dated: 05-08-2004